HONOURABLE SRI JUSTICE B. SESHASAYANA REDDY

WRIT PETITION No. 13213 OF 2005

Dated 24-11-2005

Between :

M. Venkateswar Rao, S/o Raghavaiah, aged about 60 years, resident of Dwaraka Tirumala Village & Mandal, W.G.District.

…..petitioner.

And:

1. The Government of Andhra Pradesh, rep. by its Secretary, Industries and Commerce Dept., Secretariat, Hyderabad and others.

…Respondents.

ORDER :

This writ petition has been filed by M. Venkateswar Rao assailing the inaction of the respondents in granting dispatch permits for transportation of Mineral Ball Clay in pursuance of lease granted in over an extent of Ac.11.30 cents in S.No.11 of Dwaraka Tirmala Village and Mandal, West Godavari District.

2. The petitioner is a lessee of Mining Lease for Ball Clay over an extent of Ac.11.30 cents. Period of lease has been renewed for 20 years vide G.O.Ms.No.266 dated 12-5-2000. The petitioner submitted repeated representations to the respondents for issue of transport permits. Since the representations filed by the petitioner proved to be futile, he has chosen to approach this Court by invoking jurisdiction under Article 226 of the Constitution of India with the prayer stated supra.

3. The respondents filed counter-affidavit. One A.S.V. Prasad, Assistant Director of Mines and Geology, Eluru, West Godavari District has sworn to the counter-affidavit.

It is stated in the counter-affidavit that the joint inspection of the area has been conducted on 5-8-2005 and the matter is rested with the Director of Mines and Zeology for passing necessary orders on the representations of the petitioner. I deem it appropriate to refer the relevant portion in the counter-affidavit and it is thus :

> "Subsequently the Director of Mines and Geology, Hyderabad vide their Memo. No.12025/R1-2/2005 dt. 21.05.2005 has requested the Dy. Director of Mines and Geology, Kakinada to conduct joint inspection with the

officials of Devasthanam and also Archaeology duly collecting necessary documentary evidence from them for the claims now stated for cancellation of subject mining lease which is in existence for the last 40 years. In response to above, the Dy. Director of Mines and Geology, Kakinada through their letter No. 2036/M1/93 dt.17.06.2005 has addressed the Assistant Director (Museum), A.S.P. Museum and R.I, Kakinada duly enlightening that the originally the mining activities were going on since 1965 i.e., since 40 years in and around "Kuchellametta " in S.No.11 of Dwaraka Tirumala Village, basing on the No Objection given by the Revenue Department as the land is classified in Revenue records as "Kondaporamboku" and requested to the Asst. Director (Museum), A.S.P. Museum and R.I., Kakinada to arrange the record of proof of Archeological evidence for the claims put forth by the Special Officer and Deputy Commissioner, S.V.S. Devasthanam and Archaeological Department immediately in order to submit the same to the higher authorities for taking further action in the matter. The receipt of reply in the matter from the Asst. Director (Museums) Kakinada, by the Dy. Director of Mines & Geology, Kakinada is not known to this office."

4. Heard learned counsel for the petitioner and the learned Government Pleader for Industries and Commerce appearing for the respondents 1 to 3.

5 . Learned counsel for the petitioner submits that lease in favour of the petitioner is subsisting and therefore, the respondents are not justified in not issuing the transport permit to the petitioner. Further submission has been made by her that if the transport permit is not released, there is every possibility of the white clay and china clay available in the area being wasted.

6. The Government Pleader for Industries and Commerce appearing for the respondents submits that the Director of Mines and Geology has to take action keeping in view of the Joint Inspection Report.

7. A fact remains that the petitioner is a lessee and the period of lease is subsisting. A joint inspection has been conducted and a report has been placed with the Director of Mines and Geology. It is for the Director of Mines and Geology to take necessary action on the representation submitted by the petitioner.

8. In that view of the matter, I deem it appropriate to dispose of the writ petition directing the Director of Mines and Geology, Hyderabad-2nd respondent to consider the representation submitted by the petitioner within two weeks from the date of receipt of a copy of this order. No costs.

Justice B.SESHASAYANA REDDY

Date : 24th November, 2005.

Note:

Issue CC in one week.

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Dvs

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